IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

CIVIL APPLICATION NO.4541 OF 2005
IN
CIVIL APPLICATION NO.954 OF 2005
IN
FIRST APPEAL NO.674 OF 2001

1. Ajit Prabhakar Deshpande & ors. .. Applicants

v/s.

Shri Chandrashekhar Madhukar Karnik.. Respondent

IN CHAMBER AT 5.00 P.M.

Mr.K.K.Malpathak for the applicants.

Ms.Nipa Singh i/by M/s.Mahesh Menon & Co. for the respondent.

CORAM : SMT.RANJANA DESAI, J.

DATED : 19th October, 2005.

P.C.

The present civil application is filed by the original respondents-defendants for modification of the order dated 10.3.2005 passed by me on civil application No.954 of 2005.

2. By the order dated 10.3.2005, I had directed the defendants to permit the plaintiff access from the first floor to one of the bathrooms in the suit premises through the staircase shown as blue shaded portion in the plans annexed as Exhibit A-1 and Exhibit A-2 to the civil application, after carrying out the necessary repairs. I have heard Mr.Malpathak, the learned counsel appearing for the applicants. He submitted that this staircase passes through the drawing room, leaving room and prayer room of the applicants. He submitted that

there is yet one more staircase at the back of the suit premises which opens near the bathroom. He submitted that the order dated 10.3.2005 may be modified and the plaintiff may be granted access through the said staircase. I am informed that the said staircase is in a dilapidated condition.

3. The order dated 10.3.2005 was passed after hearing the parties. It is not possible for me to drastically change the said order. However, in the circumstances of the case, I am of the opinion that this staircase at the rear of the suit premises situated near the bathroom should be repaired by the defendants at their own cost, so that the plaintiff can have the access through it to the bathroom. Obviously, this order of repairs and the expenses incurred by the defendants will abide by the final orders which will be passed in the first appeal and will not create any rights or equities in favour of the either side. Hence, I pass the following order:-

> Staircase at the rear side of the suit premises near the bathroom be repaired by the defendants at their own cost. The repairs be carried out within one month from today. After the repairs are carried out, the plaintiff shall use the said staircase to go to one of the bathrooms, situated on the ground floor. I may clarify that this order directing the defednants to carry out repairs of

the said staircase and the consequent expenses incurred by the defendants will abide by the final order that will be passed in the first appeal . This order shall not create any rights or equities in favour of either parties.

4. The learned counsel for the respondent states that the moment the staircase is repaired and access is granted to her client, the contempt petition will be withdrawn.

5. Civil application disposed of.

6. Authenticated copy of this order may be given to the parties on payment of usual copying charges.

(SMT.RANJANA DESAI, J.)